

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

IN RE: M.P.	:	APPEAL NO. C-110795 TRIAL NO. F98-1261
	:	<i>JUDGMENT ENTRY.</i>

We consider this appeal on the accelerated calendar. This judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Appellant, the father of M.P., a juvenile, appeals from the juvenile court's adoption of a magistrate's decision designating appellee, M.P.'s mother, as the child's legal custodian. Father had been the child's custodian since 1999. In 2009, mother petitioned the juvenile court for custody of M.P., then age 12. The matter was referred to a magistrate.

After an extensive pretrial period, which included the magistrate's in camera interview with M.P., the magistrate conducted a trial. In nine days of trial, the magistrate heard testimony from mother, father, Job and Family Services workers, counselors, and other witnesses.

The magistrate issued a detailed, ten-page decision that included factual findings and conclusions of law. The magistrate concluded that M.P. should be placed in the legal custody of mother. The magistrate also ordered that father was to have substantial time with M.P. and included a detailed visitation plan in the decision. Father filed objections to the magistrate's decision. The juvenile court reviewed the record, including the transcripts

of the proceedings before the magistrate, heard argument of counsel, overruled the objections, and adopted the magistrate's decision.

In his sole assignment of error, father argues the trial court abused its discretion in removing M.P. from his custody and placing the child in the care of his mother. Under R.C. 2151.23 and 3109.04, the juvenile court is to decide to whom the care, custody, and control of a minor child shall be awarded, giving paramount consideration to the best interests of the child. Where a party objects to a magistrate's decision but, as here, does not adduce new evidence before the juvenile court, we review the juvenile court's ruling on objections, and its decision to adopt a magistrate's custody decision only for a showing of an abuse of discretion. *See* Juv.R. 40(D)(4)(d); *see also In re Kruthaupt*, 1st Dist. No. C-080405, 2009-Ohio-1372; *Miller v. Miller*, 37 Ohio St.3d 71, 74, 523 N.E.2d 846 (1998). To abuse its discretion, the juvenile court must have acted unreasonably, arbitrarily, or unconscionably. *See Huffman v. Hair Surgeon, Inc.*, 19 Ohio St.3d 83, 87, 482 N.E.2d 1248 (1985). If, however, the juvenile court's exercise of its discretion exhibited a sound reasoning process that supported its decision, this court will not disturb the decision. *See AAAA Ents., Inc. v. River Place Community Urban Redev. Corp.*, 50 Ohio St.3d 157, 161, 553 N.E.2d 597 (1990);

In this case, the magistrate and the juvenile court each reviewed and applied the best-interest factors of R.C. 3109.04, including the effect of the custody change on M.P. The record reflects that despite an order of the magistrate to refrain from using physical discipline until further notice, father had permitted his girlfriend to discipline M.P. The girlfriend struck M.P. with a studded belt leaving marks and sores on his legs. During the in camera interview, M.P. had told the magistrate that he wished to live with his mother. Mother was examined by a children's service's psychologist who concluded that she was functioning at a high level and had resolved her prior substance-abuse issues. Therefore,

the juvenile court's decision that a change of custody to mother was in the best interests of M.P. is well supported in the record and will not be disturbed. The assignment of error is overruled.

Therefore, the juvenile court's judgment is affirmed.

A certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HILDEBRANDT, P.J., CUNNINGHAM and DINKELACKER, JJ.

To the clerk:

Enter upon the journal of the court on February 15, 2013
per order of the court _____.
Presiding Judge